

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CHARLES H. KAMINKSI, *et al.*,

Plaintiffs,

v.

Case No.: 15-cv-12810  
Honorable Gershwin A. Drain

BRAD L. COULTER, *et al.*,

Defendants.

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**ORDER GRANTING MOTION TO ADJOURN HEARINGS [#128],  
DENYING PLAINTIFFS' MOTION FOR CLASS CERTIFICATION [#105]  
WITHOUT PREJUDICE AND STAYING CASE**

Presently before the Court is the Plaintiffs' Motion to Adjourn Hearings on August 21, 2017, and Clarify Case Evaluation Removal, filed on August 4, 2017. Defendants filed a Response in Opposition on August 8, 2017.

In their present motion, the Plaintiffs request that the Court adjourn the August 21, 2017 hearing on Defendants' Motion for Summary Judgment and Plaintiffs' Motion to Certify Class. The Plaintiffs base their request on the recent Sixth Circuit Court of Appeals' decision concerning Defendant Clinton's and Defendant Khouri's appeal of this Court's denial of qualified immunity. Instead of resolving the immunity issue however, the Sixth Circuit addressed the merits of the Plaintiffs' claims. Specifically, the Sixth Circuit concluded that an "alleged

Contracts Clause violation cannot give rise to a §1983 claim . . . .” *Kaminski v. Coulter*, No. 16-1768, 2017 U.S. App. LEXIS 13378, \*17 (6th Cir. Jul. 25, 2017). The Sixth Circuit further opined that Plaintiffs’ Due Process and Takings Clause claims “fail[] on their merits[.]” *Id.* at \* 20-21.

In this Court’s view, the law of the case doctrine would preclude further action in this matter, other than dismissal of the action in its entirety. Because the Plaintiffs have moved for rehearing in the Sixth Circuit Court of Appeals, the mandate will not issue until their request for rehearing is resolved. While the Court retains jurisdiction over Defendants Brad L. Coulter, City of Lincoln Park, Christopher Dardzinski, Mario DeSanto, Lisa Griggs, Thomas Murphy, Elliot Zelenak, Frank Vaslo, and Mark Kandes, the Court finds that judicial economy favors staying the instant matter until the Sixth Circuit has resolved the Plaintiffs’ request for rehearing.

Accordingly, Plaintiffs’ Motion to Adjourn Hearings [#128] is GRANTED. Plaintiffs’ Motion to Certify Class [#105] is DENIED WITHOUT PREJUDICE. This matter is STAYED until the Sixth Circuit Court of Appeals issues the mandate.

SO ORDERED.

Dated: August 15, 2017

/s/Gershwin A. Drain  
GERSHWIN A. DRAIN  
United States District Judge

## CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on  
August 15, 2017, by electronic and/or ordinary mail.

/s/ Tanya Bankston

Deputy Clerk